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U. S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE.
HENRY S. GRAVES, Forester.

UNIVERSITY OF MICHIGAN
NOV 3

THE NATIONAL FOREST MANUAL.

REGULATIONS OF THE SECRETARY OF AGRICULTURE APPERTAINING TO TRESPASS UPON THE NATIONAL FORESTS AND INSTRUCTIONS TO FOREST OFFICERS THEREUNDER.

ISSUED BY THE
SECRETARY OF AGRICULTURE
TO TAKE EFFECT
SEPTEMBER 1, 1911.

TRESPASS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1911.

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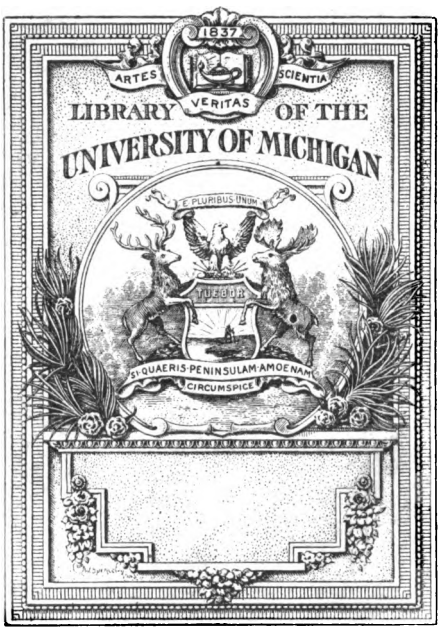

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The Secretary * * * may make such rules and regulations * * * as will insure the objects of said reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of this act or such rules and regulations shall be punished (by $500 fine or 12 months' imprisonment, or both) as is provided for in the act of June 4, 1888, amending section 5388 of the Revised Statutes of the United States. (Act of June 4, 1897, 30 Stat., 11.)

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CONTENTS.

	Page.
Regulations	5
Fire trespass	5
Timber trespass	5
Grazing trespass	6
Occupancy trespass	6
Settlement of trespass cases	6
Instructions and procedure	7
Fire trespass	7
Timber trespass	9
Grazing trespass	14
Occupancy trespass	15
Property trespass	16
Settlement of trespass cases	16
Ordinary civil cases	17
Criminal cases	19
Index	21

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UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON.

By virtue of the authority vested in the Secretary of Agriculture by the act of Congress of February 1, 1905 (33 Stat., 628), amendatory of the act of Congress of June 4, 1897 (30 Stat., 11), I, James Wilson, Secretary of Agriculture, do make and publish the following regulations for the prevention of, and governing the method and manner of handling and adjusting, trespasses upon the National Forests, the same to supersede all previous regulations for like purposes and to be in force and effect from the 1st day of September, 1911, and to constitute a part of the Use Book.

In testimony whereof I have hereunto set my hand and official seal, at Washington, D. C., this 5th day of August, 1911.

JAMES WILSON,
Secretary of Agriculture.

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NATIONAL FOREST MANUAL.

TRESPASS REGULATIONS.

FIRE TRESPASS.

Regulation T–1. The following acts are prohibited on lands of the United States within National Forests:

(A) Setting on fire or causing to be set on fire any timber, brush, or grass: *Provided, however,* That this regulation shall not be construed to prohibit the building of necessary camp fires or other fires for domestic or manufacturing purposes.

(B) Building a camp fire in leaves, rotten wood, or other places where it is likely to spread, or against large or hollow logs or stumps, where it is difficult to extinguish it completely.

(C) Building a camp fire in a dangerous place, or during windy weather, without confining it to holes or cleared spaces from which all vegetable matter has been removed.

(D) Leaving a camp fire without completely extinguishing it.

TIMBER TRESPASS.

Regulation T–2. The following acts are prohibited on lands of the United States within National Forests:

(A) The cutting, killing, destroying, girdling, chipping, chopping, boxing, injuring, or otherwise damaging, or the removal of any timber or young tree growth except as authorized by law or regulation of the Secretary of Agriculture.

(B) The damaging or cutting, under any contract of sale or permit, of any living tree before it is marked or otherwise designated for cutting by a Forest officer.

(C) The removal from the place designated for scaling, measuring, or counting of any timber cut under contract of sale or permit until scaled, measured, or counted, and stamped by a Forest officer.

(D) The stamping, except by a Forest officer, of any timber belonging to the United States, either with the regulation marking tools or with any instrument having a similar design: *Provided,* That timber lawfully cut from public land which is subsequently included within a National Forest may be removed within a reasonable time after the inclusion of such land in a Forest: *Provided further,* That the term "timber" as used in this regulation shall be deemed and taken to mean trees of a character or sort that may be used in any kind of manufacture or the construction of any article, or for fuel.

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GRAZING TRESPASS.

Regulation T–3. The following acts are prohibited:

(A) The grazing upon or driving across any National Forest of any live stock without permit, except such stock as are specifically exempted from permit by the regulations of the Secretary of Agriculture, or the grazing upon or driving across any National Forest of any live stock in violation of the terms of a permit.

(B) The grazing of stock upon National Forest land within an area closed to the grazing of that class of stock.

(C) The grazing of stock upon an area withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the stock, after the receipt of notice from an authorized Forest officer of such withdrawal and of the amendment of the grazing permit.

OCCUPANCY TRESPASS.

Regulation T–4. The following acts are prohibited:

(A) Squatting upon National Forest land, or making settlement thereon, except in accordance with the act of June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves."

(B) Constructing or maintaining any kind of works, structure, fence, or inclosure; conducting any kind of business enterprise or carrying on any kind of work on National Forest land without a permit, except as otherwise allowed by law or regulation, and except upon a claim for the actual use, improvement, and development of the claim consistent with the purposes for which it was initiated.

(C) The willful tearing down or defacing of any notice of the Forest Service posted within a National Forest.

SETTLEMENT OF TRESPASS CASES.

Regulation T–5. The district foresters are authorized to settle all cases of innocent or unintentional civil trespasses where the total value of the forest products injured, taken, or destroyed is not in excess of $100.

Regulation T–6. Settlement of all innocent or unintentional civil trespasses where the total value of the forest products injured, taken, or destroyed is in excess of $100 will be effected by the Secretary of Agriculture. All willful civil trespasses, or those involving injury to the lands of the United States, separate and apart from the taking, injury, or destruction of forest products, and all criminal trespasses will be reported to the Secretary of Agriculture for reference to the Attorney General for action.

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INSTRUCTIONS AND PROCEDURE.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, August 5, 1911.

The following procedure and instructions are hereby established and issued, to take effect on September 1, 1911, governing the enforcement of regulations of the Secretary of Agriculture relating to the prevention of, and governing the method and manner of handling and adjusting, trespasses upon the National Forests.

HENRY S. GRAVES, *Forester.*

Approved.
JAMES WILSON,
Secretary.

FIRE TRESPASS (Reg. T-1).

National Forest fire law and regulations.

The act of June 4, 1897, authorizes the Secretary of Agriculture to make rules and regulations for the occupancy, use, and protection of the National Forests and provides that any violation of such rules and regulations shall be punishable by a fine of not more than $500, or imprisonment for not more than 12 months, or both. The Secretary in the exercise of this authority promulgated Regulation T–1 to insure care with fires and thus protect National Forest resources.

Setting fire on public lands.

Section 52 of the act of March 4, 1909 (35 Stat., 1088), provides a fine of not more than $5,000, or not more than two years' imprisonment, or both fine and imprisonment, for willfully setting on fire or causing to be set on fire any timber, underbrush, or grass upon the public domain or for leaving or suffering a fire to burn unattended near any timber or other inflammable material.

Failing to extinguish fires on public lands.

Section 53 of the same act provides a fine of not more than $1,000, or not more than one year's imprisonment, or both fine and imprisonment, for failure to totally extinguish a fire built in or near any forest, timber, or other inflammable material upon the public domain before leaving it.

Prosecution.

Offenders can be prosecuted under either of these acts. The United States, having all of the legal remedies of a private citizen, can, in addition to criminal prosecution, bring civil suit to recover damages for loss by fire.

Prosecution under State law.

In certain cases criminal prosecution under the State laws may be advisable. Such prosecutions must, of course, be conducted in the State courts and by State authorities, with such assistance as may be rendered by the district assistant to the Solicitor. Proof in criminal cases must be very specific. Great care should be taken to collect evidence by

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affidavit, not only to secure evidence to convict, but evidence in rebuttal of the probable defense. Proceedings should be instituted in a State court only after review of the case by the district assistant to the Solicitor.

Rewards.

During the fiscal year ending June 30, 1911, unless otherwise ordered, and thereafter, provided Congress shall make the necessary appropriation or authorize the payment thereof, the Department of Agriculture will pay the following rewards:

First. Not exceeding $250 and not less than $50 for information leading to the arrest and conviction of any person, in any United States court, on the charge of willfully and maliciously setting on fire, or causing to be set on fire, any timber, underbrush, or grass upon the lands of the United States within a National Forest.

Second. Not exceeding $100 and not less than $25 for information leading to the arrest and conviction of any person, in any United States court, on the charge of building a fire on lands of the United States within a National Forest, in or near any forest timber or other inflammable material, and leaving said fire before the same has been totally extinguished.

Third. All officers and employees of the Department of Agriculture are barred from receiving reward for information leading to the arrest and conviction of any person or persons committing either of the above offenses.

Fourth. The Department of Agriculture reserves the right to refuse payment of any claim for reward when, in its opinion, there has been collusion or improper methods have been used to secure the arrest and conviction thereunder, and to allow only one reward where several persons have been convicted of the same offense or where one person has been convicted of several offenses, unless the circumstances entitle the claimant to a reward on each such conviction.

These rewards will be paid to the person or persons giving the information leading to such arrests and convictions upon presentation to the Department of Agriculture of satisfactory documentary evidence thereof, subject to the necessary appropriation, as aforesaid, or otherwise, as may be provided by law.

Applications for reward, made in pursuance of this notice, should be forwarded to the Forester, Washington, D. C.; but a claim will not be entertained unless presented within three months from the date of conviction of an offender.

In order that all claimants for reward may have an opportunity to present their claims within the prescribed limit, the department will not take action for three months from date of conviction of an offender. The above is applicable to offenses committed since July 1, 1910.

Investigation of cause of fire.

When a fire occurs, the most important consideration is, of course, to put it out. As soon as possible thereafter, the ranger in charge should make diligent inquiry into its cause. He should not content himself with conjecture, hearsay, or circumstantial evidence, but should secure affidavits from witnesses as soon as it appears probable that a fire trespass case will follow. If he secures convincing evidence that the fire was incendiary, and there is reason to suppose the offender will escape, he should arrest or secure a war-

Arrest.

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rant for the arrest of the offender, in accordance with instructions given under "Settlement of trespass cases."

Innocent fire trespass.

Cases where fire spreads after all reasonable precautions are taken, or where the fire is entirely the result of accident, will be considered innocent, and only actual or compensatory damages will be demanded.

Willful fire trespass.

All cases where fires are set maliciously, or allowed to spread through gross carelessness or neglect, or, in violation of any Federal or State law, are willful, and evidence should be secured and report prepared with a view to criminal prosecution as well as the collection of damages.

Report.

Since fire trespass involves rather difficult considerations of damage to young growth, soil productivity, damage to forage, etc., Forest officers should feel free to call upon the supervisor for assistance and advice, and he in turn upon the district forester. Extreme care is necessary in the preparation of reports, since they are the basis for determining whether the trespass is innocent or willful, and if the latter, the basis for preparing the case for either civil or criminal prosecution. The report, as outlined on Form 856, will be submitted by the supervisor as soon after the fire is out as the data can be obtained.

Procedure.

After receipt of report from the supervisor the district forester will act in accordance with the procedure outlined under "Settlement of trespass cases." If a fire burns over portions of two or more National Forests, action will be taken by the district forester after the reports and recommendations from all the supervisors concerned are received. In the district office fire trespass cases will be handled by the office of silviculture with any necessary advice and information as to the cost of fighting the fire and the injury to forage from the offices of operation and grazing respectively. In Washington they will be handled by the branch of silviculture, with any necessary advice and information from the branches of operation and grazing.

TIMBER TRESPASS (Reg. T-2).

Timber depredations on public lands.

By section 49 of the penal code (act of Mar. 4, 1909, 35 Stats., 1088), the cutting of, or causing or procuring to be cut, or the wanton destruction of, or causing to be wantonly destroyed, any timber growing on the public lands of the United States, or the removal, or causing the removal of, any timber from such lands, is a criminal offense, punishable by a fine of not more than $1,000, or imprisonment for not more than one year, or by both fine and imprisonment. It is further provided, however, that:

> "Nothing in this section shall prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking timber necessary to support his improvements, or the taking of timber for the use of the United States. And nothing in this section shall interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands."

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Timber depredations on National Forest lands.

Section 50 of the act of March 4, 1909 (35 Stats., 1088), as amended by section 6 of the act of June 25, 1910 (36 Stats., 857), makes it a criminal offense, punishable by a fine of not more than $500, or imprisonment for not more than one year, or by both fine and imprisonment, to unlawfully cut, or aid in unlawful cutting, or to wantonly injure or destroy, or procure to be wantonly injured or destroyed, any tree, growing, standing, or being upon any land of the United States which has been reserved or purchased for any public use.

Boxing, etc., timber for turpentine, etc.

By section 51 of the penal code (act of Mar. 4, 1909, 35 Stats., 1088), the cutting, chipping, chopping, or boxing of any tree upon National Forest and other Government land, or upon any land covered by or embraced in any unperfected settlement, application, filing, entry, selection, or location, made under any law of the United States, for the purpose of obtaining from such tree any pitch, turpentine, or other substance, or knowingly encouraging, causing, procuring, or aiding in such cutting, chipping, chopping, or boxing, or buying, trading for, or in any manner acquiring the product so obtained with knowledge that it was unlawfully obtained, is a criminal offense punishable by a fine of not more than $500, or imprisonment for not more than one year, or by both fine and imprisonment.

Investigation of timber trespass.

Timber trespass on National Forests will be handled exclusively by the Department of Agriculture, except such trespasses as have hitherto been reported upon or are now being investigated or prosecuted by the Department of the Interior, and upon request from officials of that department forest officers shall render all possible assistance in such investigation or prosecution.

Timber cutting on unperfected claims.

The cutting of timber upon an unperfected claim beyond the extent necessary for its actual development or for uses not consistent with the purpose for which the claim was initiated, or the cutting of timber from one mining claim for use upon another where such use does not tend directly to develop the claim from which the timber is cut will be reported as timber trespass in accordance with the procedure prescribed under "Settlement of trespass cases." Report should be made at the same time upon the claim, using the outline on Form 654 or 655, and the status of the claim as indicated by the report will determine the action which will be taken to prevent, settle, or prosecute the trespass.

Threatened trespass.

When a Forest officer discovers that National Forest timber is threatened with trespass, and no warning will serve to restrain the trespasser, an injunction may be necessary to protect National Forest interests. The procedure to obtain an injunction is outlined under "Settlement of trespass cases."

Innocent and willful trespass.

If, at the time the cutting was done, the trespasser, after the exercise of due diligence to ascertain from official sources the ownership of the land or his rights therein was unaware that he was not lawfully entitled to the timber, the act will be considered an innocent trespass. If cutting occurs beyond the boundaries of patented land through bona fide mistake, or trespass has been committed on account of any other bona fide error of fact or in innocence of the rights of the United

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States, the trespass will be considered an innocent one. Where these conditions do not exist, the trespass will be considered willful. While the men who do the actual cutting may legally be held for the trespass, ordinarily it is advisable, particularly in civil cases, to proceed against the corporation, company, or individual by whose direction and for whose benefit the cutting was done. In civil cases the employer is liable for the willfulness of the employee, if he knew of the trespass and took no means to stop it, or, if after the trespass was committed, he knowingly approved it or adopted it by receiving the fruit of the trespass, or whenever he employed persons to do the cutting knowing them to be careless, reckless, and unreliable.

Measure of damages.

The willfulness or innocence of a trespass determines whether the value of the material in the condition where found or its value immediately after felling will be the basis for assessing the damages due the United States. Forest officers must be extremely careful, therefore, to secure all evidence bearing on this point, and their reports must clearly show into which class the trespass falls. If, for instance, no settlement is made in a trespass case, and it becomes necessary to institute suit to obtain damages, evidence of reliable witnesses will be needed to prove whether the trespass was innocent or willful, and such evidence, in affidavit or other form, should accompany the report. In every case, whether considered by the forest officer innocent or willful, the safer course is to secure and report the values both on the basis of innocent and willful trespass.

In innocent cases.

When the trespass is innocent, the measure of damage will be the value of the timber after it was cut at the place where it was cut.

Innocent purchasers.

Where the purchaser of timber cut in innocent trespass is held for damages the measure will be the value of the timber after it was cut at the place where it was cut. If the timber is purchased from a willful trespasser, without knowledge of the trespass, the value will be determined as of the time of such purchase.

In willful cases.

When the trespass is willful the measure of damages will be the value of the timber in its condition when and where found. If, when a willful trespass is discovered, the trees are felled, the assessed damage will be the stumpage plus the cost of felling; if they are cut into logs, the cost of bucking will be added, and if found at the mill the cost of both bucking and hauling will be added. The current value of the lumber will be the basis for assessing damages if the logs have passed through the mill.

Willful purchasers.

Where the purchaser of timber cut in trespass is held for damages, the measure will be the value of the material at the time and place it is found if it was purchased from a willful trespasser with full knowledge that the timber was cut in trespass.

Waste and damage to Forest.

If in addition to the cutting and removal of Government timber, the trespasser, by careless felling or logging, has done avoidable damage to young growth or timber left standing, an estimate of the money value of this loss should be made and included in the assessed damages. Merchantable timber wasted in high stumps, long tops, or left in the woods should, of course, be included in the scale.

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Stump scales.

In making a stump scale the total log length taken from each tree should be measured. In most cases where the trespass is not over 2 years old the indentation in the ground can be seen where the butt struck when the tree fell. From that point, which is often several feet from the stump, to the top, the direction of which can be determined by the undercut on the stump, the total log length can be measured. This should be divided into logs according to the taper table given under "Timber sales—Instructions to scalers," and the top diameter of each log ascertained from the same table. The scale for each log may then be obtained from the Decimal C scale stick or the scale table in the Timber Sales Manual. The merchantable portion left in the top and in high stumps should be scaled and noted separately. After scaling each tree, the top of the stump and the butt of the top should be stamped "U. S."

Use of volume tables.

In cases where the tops can not be identified or have been moved, or fire has followed, the scale may be obtained from a volume table (if one is available for the locality and species) by reducing the diameter at the top of the stump to diameter breast high.

Record of method used.

Forest officers should use extreme care in scaling trespass timber, especially in a stump scale, and should keep complete notes on the method used, since if the case is brought into court the scale must be introduced as legal evidence.

Action to stop trespass.

When a forest officer discovers a timber trespass, he must first ascertain the exact location and status of the land involved, making sure that it is within the boundary of the forest and upon land under the jurisdiction of the Forest Service. To do so it may be necessary to locate the nearest Government corner and run a survey and to obtain the status of the land from the district office or the local land office. He will then serve written notice upon the trespasser, in the presence of witnesses if possible, to discontinue the trespass and record in his notebook the place, names, and addresses of those present, and the day and hour of the notification.

Seizure, authority of Forest officers to make.

Forest officers, as agents of the Government, may, without further instructions, seize timber cut in trespass wherever found, even though it may be upon patented land at the time. If there is grave danger that the timber cut in trespass will be removed beyond recovery by the United States, all material belonging to the Government will be seized.

Seizure defined.

Seizure, or recaption, is the right of a person to retake his property in a peaceable manner wherever he finds it. Since the United States has the same common-law rights and remedies as an individual, it may, through its agents, exercise the same right of seizure or recaption as an individual.

The right of seizure should be exercised with extreme care, since mistaken zeal in this regard may lead to serious complications or subject the Forest Service to the charge of arbitrary action. Seizure may be made only when it can be done peaceably, and it is necessary

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to prevent the Government property from being sold, destroyed, or removed beyond recovery.

If the case has proceeded to suit and is in the hands of the Department of Justice, seizure will be made only under instructions from the United States attorney handling the case. Any developments in such a case which render immediate seizure necessary to prevent loss to the Government should be reported by wire to the district office.

When seizures can be made.

Timber cut in trespass may be seized, although manufactured into lumber and in the hands of an innocent purchaser and upon patented land. It is within the right of the United States to seize buildings or other improvements, either on Government or patented land, when such improvements are constructed wholly or in part from timber cut in trespass; but this drastic action will be taken only as a last resort to save the United States from loss and then only on definite instruction from the district forester.

Mixed timber.

Where a trespasser wrongfully mingles Government timber or lumber with his own, either the whole mass may be seized and held until the amount lawfully owned by the claimant is proved by him, or, if the amount taken from the Government land is known, an equal amount of the commingled mass may be seized.

Posting trespass material.

The Forest officer making a seizure will post notices of seizure on the material seized in sufficient numbers to identify unmistakably all material covered by the seizure. The trespasser and any witnesses to the act should be notified of its significance and warned against the removal of the property under seizure.

Release from seizure.

Material seized will not be stamped "U. S." until the case is settled and the material released, when the seizure notices will be removed and the material stamped.

Report.

When timber trespass has been committed, the Forest officer discovering it will submit to the supervisor a complete report, including the time when the timber was cut, in accordance with the outline on Form 856. Each case should be prepared with as much care as if it were to result in a suit. Hearsay is not evidence and all available witnesses should be interviewed and their sworn statements obtained. If the trespass is committed under color of a claim, report should be made at the same time upon the claim, using the outline on Form 654 or 655.

Procedure.

After receipt of report by the supervisor, the procedure will be in accordance with the instructions under "Settlement of trespass cases." In the district forester's or Forester's office timber trespass cases will be handled by the office or branch of silviculture.

Disposal of slash before closure.

After settlement the case will be closed upon the assurance by the supervisor that the area cut over is in a satisfactory condition. Forest officers should watch this carefully and should insist on a proper disposal of slash from the cutting area. The trespasser should understand clearly what will be required of him in this respect and upon completing the work, the Forest officer should inspect the area, make sure that all

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stipulations of settlement have been fulfilled and report to the supervisor. If the area is reported in satisfactory condition the supervisor will then report to the district forester and recommend that the case be closed. Upon being notified by the district forester that the case is closed he will notify the trespasser of the closure of the case.

GRAZING TRESPASS (Reg. T-3).

Under Regulation T-3 the following acts constitute trespass:

What constitutes grazing trespass.

(A) Allowing stock not exempt from permit to drift and graze on a National Forest without permit.

(B) Grazing or driving stock not exempt from permit on National Forest land without permit.

(C) Violation of any of the terms of a grazing or crossing permit.

(D) Refusal to remove stock upon instructions from an authorized Forest officer when an injury is being done the National Forest by reason of improper handling of the stock.

Removal of stock.

The owner of trespassing stock should be ordered to remove it at once, or, if the situation is urgent, the Forest officer may remove the stock in any way that does not injure it physically.

A distinction is made between permitted stock and unpermitted stock.

Permitted stock may be removed from any portion of the Forest not allotted to it, but the permit can not be canceled or the stock removed from the area allotted to it without authority from the district forester.

Forest officers may drive unpermitted stock from any portion of the Forest upon discovery of its presence, or they may allow the owner or herder a reasonable time to remove it; but if he refuses to do so, the person in charge of the stock may be arrested and the stock removed from the Forest by the Forest officers. (See Procedure in criminal cases.)

Report.

After the removal of the stock the Forest officer discovering the trespass will prepare a report in duplicate in accordance with the outline on Form 856 and forward it to the supervisor. This report should contain clear-cut, definite statements upon the following points: The inclusive dates upon which the stock was in trespass; actual or approximate number of stock grazed in trespass and method of determination; brands or earmarks of stock and recorded ownership of same; name and address of the owner of the stock; location and extent of area upon which stock has trespassed, by legal subdivisions, or a definite description by local landmarks; whether Forest boundaries were marked at point of trespass or not, and whether trespasser has ever been advised of the exact location of the Forest boundaries or has theretofore committed a similar trespass on the Forest; kind of monuments used to mark the boundaries and their distance apart; the names and addresses of all witnesses having knowledge of the facts, together with a brief synopsis of their statements, signed by them. Should there be witnesses who decline to make a statement, a brief synopsis of the facts to which it is believed they can testify should be sub-

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mitted. All questions contained in the above form should be answered. The report should be accompanied by a map showing the location of the area trespassed upon. The Forest officer making the report should include therein a statement of his estimate in money of the actual value of the forage and forest growth or other forest products consumed, destroyed, or injured, and an estimate of the actual damage, if any, sustained by the United States through injury to improvements on the Forest as a result of the trespass. The report should distinctly show the circumstances of the trespass, that is, facts disclosing whether it was committed innocently or unintentionally, or knowingly, willfully, recklessly, or without regard to the rights of the United States, or in defiance of warnings against trespass. The subsequent procedure will be as presented under "Settlement of trespass cases."

Procedure.

In the district office grazing trespass cases will be handled by the office of grazing and the office of the solicitor. In Washington they will be handled by the branch of grazing, the Office of the Solicitor, and the Office of the Secretary of Agriculture.

OCCUPANCY TRESPASS (Reg. T-4).

What constitutes occupancy trespass.

The use of the National Forest land without permit for any purpose for which special-use permits are required constitutes occupancy trespass. Traveling, temporary camping, hunting, surveying, or prospecting may be carried on without permit, and camp wood and forage for stock used in connection with such projects may be taken free of charge.

Since the United States has all the civil rights and remedies for trespass possessed by private individuals, it may bring action to recover damages resulting from trespass or breach of contract.

Innocent trespass.

In case of an innocent trespass the supervisor should make every effort to secure satisfactory adjustment amicably. He should, if possible, interview the trespasser and induce him to discontinue the trespass or remove his improvements, allowing him a reasonable time within which to do so.

Closure by issuance of special-use permit.

Innocent trespasses may in most cases be closed by the issuance of a special-use permit covering the occupancy.

Action to stop trespass.

If the trespasser is engaged in constructing any building or other structure on National Forest land, he should be notified by a written order, served, if possible, in the presence of witnesses, to suspend work. In aggravated cases it is within the authority of a ranger to seize improvements constructed on National Forest land, but unless damage actually threaten the National Forest, this action will not be resorted to.

Report.

The Forest officer discovering the trespass will, after assuring himself of the status of the land, prepare a full report in accordance with the outline given on Form 856 and forward it to the supervisor.

Procedure.

After receipt of the ranger's report by the supervisor the procedure will be as prescribed under "Settlement of trespass cases."

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PROPERTY TRESPASS.

What constitutes property trespass.

The unauthorized appropriation, damage, or destruction of property of the United States, used in the administration of the National Forests, constitutes a trespass. Interference with the personal property of Forest officers is not trespass against the United States, and redress can only be obtained in the local courts between the offender and the officer in his capacity as a private citizen.

Sufficiency of evidence.

Property trespass, when taken up, will usually result in litigation. Therefore, Forest officers discovering that a trespass of this character has been committed must make every effort to gather and submit with their report sufficient convincing legal evidence to insure a conviction.

Recovery of Forest Service property.

Forest officers, as agents of the Government, may, without further instructions, seize Forest Service property wrongfully taken wherever it may be found, but should be extremely careful that the identification of the property is complete. Seizure may be made only when it can be done peaceably, and when necessary to prevent the Government property from being sold, damaged, destroyed, or removed beyond recovery.

Report.

Forest officers, upon discovery of a property trespass, will prepare a full report in accordance with the outline given on Form 856 and forward it to the supervisor. The report will state specifically the kind and value of the property stolen, damaged, or destroyed; the circumstances of the trespass; and the action, if any, taken for the recovery or protection of the property of the Government wrongfully taken or destroyed.

Procedure.

If the supervisor considers that there is sufficient evidence to warrant legal action, he will transmit the report with his own comments and recommendations to the district forester. The subsequent procedure will be as prescribed under "Settlement of trespass cases."

SETTLEMENT OF TRESPASS CASES (Regs. T-5 and T-6).

Legal remedies for trespass.

The United States has all the legal remedies for trespasses upon its lands that are available to individuals, and invokes the aid of its own courts to enforce them. Among these remedies are: Injunction either to prevent threatened trespasses or to terminate such as are being committed; action to recover the value of products and resources of the lands converted or injured by trespassers; and prosecutions for violation of statutes defining crimes in relation thereto.

Injunction.

Whenever a threatened or actual trespass on lands of the United States within a National Forest is discovered and resort to the remedy of injunction is necessary, the supervisor will communicate the facts to the district forester, who will consult with the district assistant to the solicitor, and if the latter is of the opinion that injunction can be maintained he will report the facts to the Solicitor for reference by the Secretary to the Attorney General for action.

Whenever application for an injunction is too urgent to admit of delay in ordinary correspondence between the district assistant to

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the solicitor and the Solicitor, the former will telegraph briefly all the essential facts in the case to the Solicitor, and the Attorney General will be requested to give immediate instructions to the United States attorney to apply for an injunction.

Whenever application for an injunction is so urgent that the interests of the United States would be prejudiced by the delay incident to the course outlined in the paragraph immediately preceding, the district assistant to the solicitor will submit the facts to the proper United States attorney and will request that application be made immediately for an injunction, but as soon as possible thereafter he will advise the Solicitor of his action and of the essential facts in the case in order that the Attorney General may be requested at once to give the necessary instructions to the United States attorney.

ORDINARY CIVIL CASES.

Action by forest officer.

The Forest officer upon discovering a trespass should take immediate steps to protect the National Forests from injury.

Forest officer's report.

After taking such action the Forest officer will prepare a report in duplicate in accordance with the outline on Form 856 and submit it to the supervisor. This report should contain clear-cut, definite statements covering all points which are pertinent to the case, as noted on the form, or as outlined in the instructions regarding grazing trespass. If the trespass is committed on or under color of a claim, report should at the same time be made upon the claim, in accordance with the outline on Form 654 or 655, which will accompany the trespass report.

Action by supervisor.

If upon receiving the report it is the supervisor's opinion that a trespass has been committed, he will, except in cases of property and criminal fire trespasses, inform the trespasser by registered mail, or in person, of the trespass, and that he will be allowed a definite time from receipt of notice in which to make a sworn statement of the circumtances of the trespass and his estimate of the damages sustained by the Government as a result of the trespass, and that such statement will be considered in the determination of the actual damages sustained by reason of the trespass.

Trespasser's statement.

Conference with trespasser.

Whenever practicable the supervisor should meet the trespasser and talk the matter over with him. No grazing, timber, or occupancy trespass report should be forwarded to the district forester until the trespasser has had an opportunity to present his version of the facts.

After consideration of the trespasser's statements the supervisor will supplement the Forest officer's report by his own findings as to the damage sustained by the Government, and particularly as to the innocence or willfulness of the trespass, and send both to the district forester.

Procedure in district office.

Upon receipt of the papers in the case by the district forester it will be referred to the office concerned. A separate folder, with the designation thereon, will be used for each case. An index card will be used for each case, upon which will be entered the case designation and such notations as may be necessary. The assistant district forester in charge of the office,

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after having examined the report, will prepare a memorandum, containing his estimate of the damage sustained by the United States, his opinion regarding the nature of the trespass, and his recommendations for action.

Action upon report on claim submitted with trespass report.

If the trespass report is accompanied by a claims report, all the papers will then be referred to the office of lands. If it appears, upon an examination of the claims report in that office, that action should be initiated to protest the claim, the original reports upon the claim will be removed from the trespass file and a copy substituted. A memorandum, showing the intended action, if any, upon the claims report, will be attached to the trespass report. Action in the claims case will then be taken in accordance with the procedure prescribed under "Claims."

Report referred to district assistant to the Solicitor.

The district forester will then submit the trespass case to the district assistant to the solicitor, who will determine the sufficiency of the information to sustain the action recommended. If, in his judgment, a trespass has been committed, and the action recommended is warranted by the facts shown by the record, he will prepare a memorandum to that effect for the district forester. If he believes that the trespass is not clearly established, or that the sum of the damage is inadequate or excessive, or that there is an absence of material facts, he will so advise the district forester by memorandum, indicating, if necessary, the additional evidence required to complete the case. If the district assistant to the solicitor dissents from the opinion of the district forester, the latter will take steps to conform to the legal requirements outlined by securing additional reports or evidence, and will again submit the case to the district assistant to the solicitor.

Settlement of trespass cases by the district forester.

If the case is one of innocent or unintentional trespass, and the total value of the forest products injured, taken, or destroyed is not in excess of $100, the approval by the district assistant to the solicitor will be followed by the preparation by him of a letter to the trespasser for the signature of the district forester. In all such cases the sum demanded in settlement by the district forester must not include injury to the land nor punitive or exemplary damages, since such injury or damage can be determined only in judicial proceedings. The district forester's letter, which will be forwarded through the supervisor, will inform the trespasser of the sum due the United States because of his trespass, as determined by the district forester, and that, upon payment of this amount and the fulfilment of such conditions as may be necessary to protect the National Forest, the case will be closed. A letter of transmittal (Form 861) for the amount due, signed by the district forester, will accompany the letter. A promise card will be prepared, and if after the expiration of a reasonable time the payment has not been received, the entire case will be referred to the district assistant to the solicitor, who will write a second letter to the trespasser calling attention to his failure to pay the amount due. If the trespasser fails or refuses, after receipt of the second letter, to make settlement as required, the assistant to the solicitor will forward the case to the Solicitor for submission to the Attorney General for the institution of civil suit.

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Settlement of trespass cases by the Secretary.

If the estimated amount due the United States is in excess of $100, or if the trespass was committed knowingly, willfully, recklessly, and in disregard of the rights of the United States, or if the trespass involves injury to the lands of the United States separate and apart from the injury or destruction of forest products, the district forester will add his recommendations and submit all the papers to the district assistant to the solicitor for comment and recommendation and will then forward all papers in the case, including the comment and recommendations of the district assistant to the solicitor, to the Forester for his recommendation and for submission to the Secretary, through the Office of the Solicitor, for his ascertainment and determination of the actual damage sustained by the United States.

When the Secretary has ascertained and determined the amount due the United States and that the trespass was committed unintentionally, inadvertently, or ignorantly, and does not involve injury to the lands of the United States, a letter will be prepared by the Solicitor for the signature of the Secretary, notifying the trespasser of the amount ascertained to be due in settlement of the trespass and informing him that a reasonable time will be allowed for payment. The Secretary's letter and all papers in the case will be forwarded through the Forester to the district forester, who will transmit the letter to the trespasser, accompanied by a properly prepared and signed form letter of transmittal (Form 861). A promise card will be kept by the district forester, and if the amount due is not remitted within a reasonable time, the case will be referred to the assistant to the solicitor, who will write a second letter to the trespasser, calling his attention to the fact that the amount due has not been remitted. If the trespasser fails or refuses to make the required payment, the assistant to the solicitor will take steps necessary to recover the damages by civil suit.

Action by Attorney General.

Should the Secretary determine that the trespass was committed willfully, knowingly, and in reckless disregard of the rights of the United States, or that the trespass involves injury to the lands of the United States, the facts will be reported by the Solicitor to the Attorney General for institution of suit for recovery of the ascertained damages, together with such exemplary damages as may be awarded by a jury upon consideration of the aggravated circumstances of the case. When necessary to report the cases to the Attorney General, the Solicitor will prepare the letters for the signature of the Secretary.

Compromise of civil trespasses.

In every case where a compromise of a trespass is recommended by Forest and law officers and approved by the Secretary the Secretary will advise the Attorney General of the proposed compromise and request that the case be settled in accordance therewith.

CRIMINAL CASES.

Criminal prosecution.

Settlement of or institution of suit to recover damages resulting from a trespass in a National Forest does not bar a criminal prosecution for the trespass, and the Secretary of Agriculture can not accept settlement made on the condition that no such prosecution will be instituted; nor has the Secretary power to dismiss a pending prosecution. Except in flagrant

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cases, as hereinafter stated, no Forest officer will take action looking to a criminal prosecution of the trespasser, but will report all the facts to the supervisor as directed under heading "Civil cases." The Secretary will determine from the facts reported to him whether or not criminal proceedings should be recommended to the Attorney General.

Arrest.

All Forest officers have power to arrest without warrant any person whom they discover in the act of violating the National Forest laws and regulations, or if a violation of such laws and regulations is committed out of the view of such officers they have the authority to secure a warrant from a United States commissioner, or, if one is not convenient, from a justice of the peace, and use it as the visible sign of the right to arrest, and also to arrest for any such violation on a warrant obtained by any competent person. Every person so arrested must be taken before the nearest United States commissioner for commitment.

Action by ranger where arrest is necessary.

In willful and flagrant cases where immediate action is necessary in order to protect the Forest from damage or to prevent the escape of the trespasser the ranger will place the trespasser under arrest if he is detected in the act of committing trespass, or if not so detected will first procure a warrant for his arrest; will notify the supervisor at once, advising him of the need of immediate action, of the evidence against the trespasser, and of the United States commissioner before whom the hearing will be held. He will also secure evidence upon all of the points mentioned under the head of "Civil cases." He will immediately take the trespasser before the proper United States commissioner, swear to a complaint, and, in the absence of the district assistant to the solicitor, represent the Forest Service at the hearing, and hold the trespasser for disposition according to the instructions of the commissioner. After the case has been acted upon by the commissioner the ranger will submit full reports upon the proper forms, as in a civil case, to the supervisor, including a statement regarding the urgency of the need for arrest, and the decision and rulings of the commissioner.

Action by supervisor where arrest is necessary.

The supervisor upon receipt of the ranger's preliminary report will at once notify the district forester, in order that the district assistant to the solicitor may attend the hearing if possible. The supervisor should endeavor to attend the hearing before the commissioner, or, failing to be present, should give the ranger full instruction relating to the case. As soon as the case before the commissioner has been decided and the ranger has submitted full reports upon the proper forms the supervisor should consider, approve, and record them in the proper manner, and forward all papers in the case to the district forester for submission to the district assistant to the solicitor, adding such recommendations as are necessary and stating in full all rulings and decisions made by the commissioner, after which the case will be handled by the district assistant to the solicitor.

Closure of cases.

In all cases where a trespasser has paid the damages assessed against him or has paid the fine imposed upon him by the court as a penalty for his trespass upon the National Forest the case will be closed.

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INDEX.

	Page.
Action to be taken when trespass is discovered	17
stop occupancy trespass	15
timber trespass	12
upon claims report	18
Arrest	8, 20
when and how made, procedure	20
Attorney General, action by, in injunction proceedings	16
how trespass cases shall be reported to	19
Boxing timber for turpentine, etc	10
Brush, setting on fire	5
Camp fires, when and where prohibited	5
to be extinguished before leaving	5
Chipping timber for turpentine, etc	10
Chopping timber for turpentine, etc	10
Civil cases, ordinary, how handled	17
Claims, action upon, report	18
unperfected, timber cutting on	10
Closure of trespass cases	20
Commissioner, United States, hearings before	20
Compromise of civil trespasses	19
Conference with trespasser	17
Criminal cases, how handled	19
offense, acts constituting	7, 9, 10
prosecution (*see* Prosecution).	
Damages, assessment, record to be kept of method used	12
for waste	11
measure of	11
in innocent cases	11
in willful cases	11
innocent purchasers	11
willful purchasers	11
Depredations, timber, on National Forest land	10
public land	9
Fire law and regulations	7
Fire trespass, acts prohibited by regulation	5
arrest	8
failing to extinguish fires on public land	7
innocent, what constitutes	9
investigation of cause of fire	8
National Forest fire law and regulations	7
procedure	9
prosecution	7
under State laws	7
report	9
rewards	8
setting fire on public lands	7
willful, what constitutes	9
Form 654	10, 13, 17
655	10, 13, 17
856	9, 13–17
861	18, 19
Girdling timber prohibited	5
Grass, setting on fire	5
Grazing trespass, acts prohibited by regulation	6
acts constituting	14
procedure	15
removal of stock	14
report	14

Digitized by Google

	Page.
Hearings before United States commissioner	20
Injunction, procedure	16
threatened trespass	10
Innocent fire trespass	9
occupancy trespass	15
timber trespass	10
trespass, general, how settled	6, 18, 19
Investigation (*see also* Reports).	
of fires	8
of timber trespass	10
Legal remedies that United States may invoke	12, 16
Mixed timber, seizure of	13
Notice, Forest Service, tearing down or defacing	6
posting, on seized material	13
Occupancy trespass, action to stop trespass	15
acts prohibited by regulation	6
acts constituting	15
closure, by issuance special-use permit	15
innocent	15
procedure	15
report	15
Permit, special use, closure occupancy trespass by issuance	15
Procedure, in civil cases	17
in criminal cases	19
in fire trespass cases	9
in grazing trespass cases	15
in occupancy trespass cases	15
in property trespass cases	16
in timber trespass cases	13
when injunction necessary	16
Property trespass, acts constituting	16
procedure	16
recovery of Forest Service property	16
report	16
sufficiency of evidence	16
Prosecution, criminal, for setting or failing to extinguish fires	7
how handled	19
under State laws	7
Public land, failing to extinguish fires on	7
setting fires on	7
Recaption (*see* Seizure).	
Remedies, legal, that United States may invoke	12, 16
Reports, general	17
on fire trespass	9
on grazing trespass	14
on occupancy trespass	15
on property trespass	16
on timber trespass	13
reference of, to district assistant to solicitor	18
Rewards	8
Scale, stump, care to be exercised in making	12
how made	12
Seizure, authority of Forest officer to make	12
defined	12
of Forest Service property	16
of mixed timber	13
posting seized material	13
release from	13
when may be made	13
Settlement of trespass cases:	
Criminal cases	5, 19
action by ranger when arrest is necessary	20
supervisor when arrest is necessary	20
arrest	20
closure	20
prosecution	19

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Settlement of trespass cases—Continued. Page.
Injunction ... 16
Innocent or unintentional trespasses, how handled ... 6, 18, 19
Legal remedies United States may invoke ... 16
Ordinary civil cases ... 17
action by Attorney General ... 19
Forest officer discovering trespass ... 17
supervisor ... 17
upon claims report ... 18
compromise of civil trespasses ... 19
conference with trespasser ... 17
procedure in district office ... 17
report by Forest officer ... 17
to be referred to district assistant to solicitor ... 18
settlement of, by district forester ... 18
the Secretary ... 19
trespasser's statement ... 17
Regulations ... 6
Willful civil trespass, how handled ... 6, 19
Slash, disposal of ... 13
Special-use permit, closure occupancy trespass by issuance ... 15
Squatting ... 6
Statement, trespassers ... 17
Stock, removal of ... 14
Threatened trespass, action to be taken ... 10
Timber (*see* Fire and timber trespass).
Timber trespass, action to stop trespass ... 12
acts prohibited by regulation ... 5
boxing, etc., for turpentine, etc ... 10
cutting on unperfected claims ... 10
depredations on National Forest land ... 10
public lands ... 9
disposal of slash before closure ... 13
innocent and willful, what constitutes ... 10
investigation of ... 10
measure of damages ... 11
in innocent cases ... 11
in willful cases ... 11
innocent purchasers ... 11
willful purchasers ... 11
mixed timber ... 13
posting trespass material ... 13
procedure ... 13
record of scale method used ... 12
seizure, authority of Forest officer to make ... 12
defined ... 12
release from ... 13
when may be made ... 13
stump scales ... 12
threatened ... 10
use of volume tables ... 12
waste and damage to Forest ... 11
Trespasser, conference with ... 17
statement of ... 17
Unintentional trespasses, how handled ... 6, 18, 19
United States commissioner, hearings before ... 20
Volume tables, when used ... 12
Warrant for arrest, where secured ... 20
Willful civil trespasses, how handled ... 6, 19
fire trespass ... 9
timber trespass ... 10

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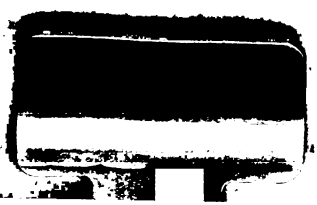

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